

REMARKS

These remarks follow the order of the paragraphs of the office action. Relevant portions of the office action are shown indented and italicized.

In order to bring the allowable matter in this application to allowance quickly, claims 1-4 and 10-19 are canceled bringing allowable claims 5-9 and 20 to allowance.

Claims 1-4 and 10-19 are canceled and removed from further consideration in this application.

Applicants are not conceding in this application that original claims 1-4 and 10-19 are not patentable over the rejections and art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter in claims 5-9 and 20, noted by the Examiner. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

DETAILED ACTION

1. *This Office Action is in response to the applicants' communication received on May 10, 2007.*
2. *Claims 1-20 are presented for examination.*
3. *The applicants have amended claims 1, 2, 5, 10-12, and 18. The applicants have not canceled or added any new claims.*

4. *Applicants' arguments with respect to claims 1-20 have been considered but are deemed to be moot in view of the new grounds of rejection.*

Allowable Subject Matter

5. *Claims 5-9 and 20 are allowed.*

In response the applicants respectfully state their appreciation for the allowance of claims 5-9 and 20.

In order to bring this the allowable matter in this application to allowance quickly, claims 1-4 and 10-19 are canceled bringing allowable claims 5-9 and 20 to allowance.

Claim Objections

6. *Claims 11 and 12 are objected to because of the following informalities: Independent claims 11 and 12 are missing “said method further comprising performing...” from the preamble. The Examiner kindly requests that the applicants add comprising to the preamble of the independent claims. Appropriate correction is required.*

Claim Rejections -35 USC § 112

7. *The following is a quotation of the second paragraph of 35 U.S.C. 112: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

8. *Claims 1 and 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See. MPEP § 2172.01. The omitted structural cooperative relationships are: “said method performing an EndTransaction operation in case EndTransaction operation is a RollbackTransaction operation aborting a transaction as unsuccessful, by issuing a corresponding RollbackTransaction operation within said execution environment independent from the nesting level of said RollbackTransaction operation; said method performing, once a RollbackTransaction operation has been executed within said nested transaction, any further StartTransaction operation or any further EndTransaction operation within said nested transaction independent from its nesting level by rejecting it as being in error without issuing a corresponding Start Transaction operation or a corresponding EndTransaction operation to the execution environment, and wherein said method: checks the nesting level of any of said StartTransaction or EndTransaction operations by a depth counter, increments said depth counter in the case of processing a StartTransaction operation, and decrements said depth counter in the case of processing an EndTransaction operation which is a CommitTransaction operation, and sets said depth counter to zero or an invalid value in the case of processing an EndTransaction operation which is a Rollback Transaction operation.”*

Claims 1 and 10-12 do not comprise the necessary structural relationships of claimed

elements that are presented in the similarity of independent claim 5.

Claim 10 does not comprise any of the tangible claim limitations presented in any of claims 1, 5, 11, and 12. Claim 10 is merely a set of executable statements (i.e., software).

Further, for independent claims 1 and 10-21 the Examiner kindly recommends adding the above suggested claim limitations that are presented in independent claim 5 to keep consistency among the independent claims collectively.

The remaining claims are dependent claims, these dependent claims are dependent on the above objected to base claims. They are therefore objected to for at least the reason set forth above.

Claim Rejections 35 USC § 101

9. *35 U.S.C. 101 reads as follows:*

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. *Claims 13-17 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As follows:*

Claims 13-17 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13, 15, and 19 are claiming an article of manufacture and being dependent on independent claims 1 and 5 and dependent claim 18. Independent claims 1 and 5 and dependent claim 18 are all method claims.

Claims 14, 16, and 17 are claiming a program storage device and being dependent on independent claims 1, 5, and 10. Claims 1, 5, and 10 are all method claims and dependent claims 14, 16, and 17 are claiming a program storage device.

*The claimed inventions, as a whole must accomplish a practical application. That is, it must produce a “useful, concrete, and tangible result.” *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. In each of these cases the result is an article of manufacture and a program storage device claiming a method claim. The claimed limitations are an abstraction as they are not useful, concrete, and tangible, they are not put in any tangible form and not useful because they are not presented in a way to provide some result that is of utility that may exist in the specification however no specific use is provided for in the claimed invention. Thus the claims are non-statutory and stand rejected under 101 as not producing a “useful, concrete, and tangible result.”*

Although, these claims are dependent claims. These claims are non-statutory because they comprise an article of manufacture and a program storage device, while their

dependency depends on independent claims that are claiming a method claim. It is recommended that the applicants place these claims in independent form, in an effort to claim and rely on an article of manufacture and a program storage device. Thus, the remaining dependent claims not mentioned in the above rejections are also rejected for being dependent upon the above recited independent claims, these claims are also rejected for the reasons set forth above.

Claim Rejections -35 USC ~ 102

11. *The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:*

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. *Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al. (Patent No. 5,903,891 filed February 25, 1997, hereinafter Chen).*

13. *Regarding Claim 10, Chen teaches hierarchical information processes that share intermediate data and formulate contract data.*

The method and associated system for hierarchical information processes that share intermediate data and formulate contract data as taught or suggested by Chen includes: . checking whether StartTransaction operation is on the first nesting level of a nested transaction (col. 5, lines 53-62) and issuing a corresponding StartTransaction operation within the execution environment only if StartTransaction operation is on the first level of the nested transaction (col. 5, lines 53-62, col. 7, lines 15-29).

As stated above, in order to bring this application to allowance quickly, claims 1-4 and 10-19 are canceled bringing allowable claims 5-9 and 20 to allowance.

Applicants are not conceding in this application that original claims 1-4 and 10-19 are not patentable over the rejections and art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter in claims 5-9 and 20, noted by the Examiner. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

Serial No.: 10/055,208

It is anticipated that this amendment brings this application to allowance. If any question remains, please contact the undersigned before issuing a communication with a FINAL status.

Please charge any fee necessary to enter this paper to deposit account 50-0510.

Respectfully submitted,

By: /Louis Herzberg/
Dr. Louis P. Herzberg
Reg. No. 41,500
Voice Tel. (845) 352-3194
Fax. (845) 352-3194

3 Cloverdale Lane
Monsey, NY 10952

Customer Number: 54856